

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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08/928, 156	09/12/97	BENJAMIN	ATTORNEY DOCKET NO.
APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	3005102

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IM71/0305

EXAMINER  
MORRIS, T

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 03/05/99

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**

<b>Office Action Summary</b>	Application No.	Applicant(s)
	08/928,156	Bersted et al.
Examiner	Group Art Unit	
Terrel Morris	1771	

Responsive to communication(s) filed on Mar 30, 1998.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-9 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-9 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Negola et al., US 5,549,957.

Please see the Abstract; column 2, lines 7-17; column 3, lines 35-45; column 4, lines 1-2, 5-6, & 17-19; column 6, lines 27-30 & 61-62; column 8, lines 20-51; claim 1 and claim 3.

The property of Plug Crush Recovery has been created by Applicant. Hence, no reference will discuss it. However, the specification indicates that a PCR of 85% is equivalent to that of normal nylon carpeting. This can be compared with the prior art. The citations above show that the yarns of Negola et al. exhibit crush recovery at least as good as regular nylon. In fact, the claims of the patent require it and also the claims require polypropylene homopolymer as one component of the fibers in the yarn.

3. It is noted that Applicant has not claimed their true invention, but rather the results therefrom. The Examiner believes that the disclosed invention is novel and unobvious. That invention is a carpet having a pile face consisting essentially of polypropylene homopolymer yarn that has been specially heat treated to increase its crystallinity and hence Plug Crush Recovery. The best method for claiming such would most probably be in product-by-process format where the method steps for treating the polypropylene yarn follows the description of the carpet.

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4. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Terrel Morris whose telephone number is (703) 308-2414. The Examiner can normally be reached Monday through Thursday from 7:00 am to 4:00 pm and on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Marion McCamish, can be reached at (703) 308-3961.

The Office has established a Fax Center to handle Official communications from Applicants via facsimile. Two numbers have been provided: (703) 305-3599 for After Final communications and (703) 305-5408 for all other Official communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Terrel Morris  
Primary Examiner  
Art Unit: 1771  
March 1, 1999